

Approved as Submitted: June 2, 2004

**CITY OF MORGAN HILL
JOINT REGULAR REDEVELOPMENT
AND SPECIAL CITY COUNCIL MEETING
MINUTES – MAY 26, 2004**

CALL TO ORDER

Chairman/Mayor Kennedy called the meeting to order at 7:02 p.m.

ROLL CALL ATTENDANCE

Present: Agency/Council Members Carr, Chang, Sellers, Tate and Chairperson/Mayor Kennedy
Absent: Agency/Council Member Chang excused herself from the meeting at 7:06 p.m.

DECLARATION OF POSTING OF AGENDA

Deputy Agency Secretary/Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

Chairman/Mayor Kennedy led the Pledge of Allegiance.

Agency/Council Member Chang excused herself from the remainder of the meeting to attend a graduation ceremony for her daughter.

PROCLAMATIONS

Mayor Kennedy read the proclamation for Veterans Appreciation Week for May 30 – June 5, 2004. He also announced the special ceremony to be held honoring veterans at 7:30 in the evening on May 31, 2004 at Community and Cultural Center.

INTRODUCTIONS

Recreation and Community Services Division Manager Spier introduced the newly hired Aquatics Center Supervisor, Aaron Himelson. Aaron then introduced his staff: Theresa Magno, Recreation Coordinator; Shelley Yowell, OA II; and Sergio Jauaregui, Building Maintenance Specialist.

Aaron noted that it is only a couple of weeks until the grand opening of the aquatics center, and presented the Council with the shirts that will be worn by the Center's staff, and a sample of the type of water toy that will be on sale at the Center. He thanked the community and the council for the construction of this facility.

Ms. Spier reminded the Council Members and the public that the grand opening will be on Saturday, June 12. She also noted that the phone number of the Center is 782-2143, and stated that it is active now and provides information on the Center and how to contact Center staff. She also reported that the Center staff will be at the Mushroom Mardi Gras this weekend and will have water toys for sale.

Mayor Kennedy thanked them and welcomed the new staff. He extended his congratulations to the Recreation staff, the Aquatics staff, and the project manager Glenn Ritter on the outstanding job they have done in bringing this project to fruition.

RECOGNITIONS

Mayor Kennedy presented a Certificate of Recognition to sisters Mary Cate Roth & Emily Roth for their heroic efforts in saving the life of their mother when she had a seizure while driving on the freeway. These two children showed maturity in a very frightening situation and he commended them for their actions in bringing the vehicle to a stop, walking to a call box and phoning for help, and remaining calm and clear in the presentation of the information needed to assist the responding agencies. Mayor Kennedy commended them for their brave actions and complimented them on being good examples for their peers and the community at large.

CITY COUNCIL SUB-COMMITTEE REPORT

Council Member Sellers reported on the Legislative Subcommittee. He stated that it is their intent to present a formal report at the June 2 meeting. There are three items that they will be recommending for support or opposition. 1) They will recommend opposing AB 2406, which requires the State Fire Marshall to create a fire reporting system that duplicates current reporting; 2) Recommend opposing SD 744 which affects the State's ability to overturn land use decisions; and 3) Recommending support of SB 1097, a bill sponsored by Senator Feinstein which provides additional funding for the California water system.

CITY MANAGER REPORT

City Manager Tewes reported on the recent testing of water wells for perchlorate. Results of the last report show that all wells showed "Not Detectible" levels of perchlorate, based on the state detection levels of 4 ppb.

CITY ATTORNEY REPORT

City Attorney Leichter stated that there is no City Attorney's Report this evening.

OTHER REPORTS

City Treasurer Roorda was not present for the Finance & Audit Committee Report. City Manager Tewes reported that at the Finance and Audit Committee meeting earlier this evening, the Committee had made some major progress on developing a recommendation that will come back to the City

Council on the issue of considering revenue options and obtaining community input on these options. Their intention is to bring this information to the Council on June 16.

PUBLIC COMMENT

Chairman/Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Chris Houle spoke regarding the need for a bike park in Morgan Hill similar to the existing skate park. He asked that this item be included in future planning of recreational areas in Morgan Hill.

Mayor Kennedy stated that he will provide direction to staff to take a look at this issue and thanked him for his excellent presentation.

City Manager Tewes stated that he will bring this to the attention of the Parks and Recreation Commission for their evaluation.

There being no further comment, the public comment was closed.

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Agency Board unanimously (4-0, with Chang absent) **Approved** Consent Calendar Items 1-2, as follows:*

1. **APRIL 2004 FINANCE & INVESTMENT REPORT**
 Action: **Accepted** and **Filed** Report.
2. **STATUS OF EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT (ERN) WITH EL TORO BREWING**
 Action: **Accepted** Status Update Report.

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (4-0, with Chang absent) **Approved** Consent Calendar Items 3-7, as follows:*

3. **AQUATICS CENTER OPERATIONS MANUAL**

Action: *Approved the Aquatics Center Operations Manual for Staff Implementation.*

Mayor Kennedy asked to comment on this item before the vote was taken. He expressed his commendation to the Recreation staff for their excellent work on the Operation Manual, and stated that he felt it was extremely well done.

4. **CONSULTANT AGREEMENT WITH NAFFA INTERNATIONAL, INC. FOR OUTSIDE PLAN REVIEW SERVICES**

Recommended Action(s): *1) Approved Contract with NAFFA International, Inc. for the Amount of \$45,000; and 2) Authorized the City Manager to Execute the Contract, Subject to Review and Approval by the City Attorney.*

5. **ACCEPT AS COMPLETE THE PARADISE PARK IMPROVEMENT PROJECT**

Action: *1) Accepted as Complete the Construction of the Paradise Park Improvement Project in the Final Amount of \$122,481.11; and 2) Directed the City Clerk to File the Notice of Completion with the County Recorder's Office.*

6. **APPROVED MINUTES FOR SPECIAL CITY COUNCIL MEETING OF MAY 18, 2004.**

Redevelopment Agency and City Council Action

CONSENT CALENDAR:

Action: *On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Sellers, the Agency Board/City Council unanimously (4-0, with Chang absent) Approved Consent Calendar Item 7, as follows:*

7. **PERFORMANCE MEASURE UPDATE – THIRD QUARTER FISCAL YEAR 2003-2004**

Action: *Received and Filed.*

City Council Action

OTHER BUSINESS:

8. **MEDICAL SERVICES POLICY AND OBJECTIVES**

Mayor Kennedy passed out a draft of the Medical Services Policy and Objectives to Council Members. He reported that there had been a meeting of himself, Council Member Sellers, and City Manager Tewes to discuss this draft, and they had come to a general agreement, but that Council Member Sellers had some comments he wished to make.

Council Member Sellers stated that he wanted to clarify that the Short Term Objective #2 regarding urgent care facilities is intended to expand hours of operation above and beyond the current regular

business hours to include nights and week-ends. He also wanted Council to consider the difficult issue of whether they wanted to add a statement regarding competitive facilities that might hinder the accomplishment of the established goals. He asked the City Manager if there was to be any consideration of zoning changes for medical facilities.

City Manager Tewes responded that there has been an application for a change in the PUD for the Morgan Hill Business Park to allow for medical office buildings and clinics which will be coming before the Council sometime in September. In addition, the adopted General Plan Update requires the Planning Commission and staff to review changes to the standards for industrial areas to allow “by right” certain medical facilities, and that is part of the comprehensive zoning review that is underway.

Council consensus was that this issue would need to be carefully considered because they do not want to discourage competition, but at the same time want to give any medical facility the very best chance of success. Because Morgan Hill already lost a hospital because of competition, the Council does not want to have conditions that would allow this to happen again; and they endorse trying to guide development to avoid the type of situation that can bring failure because of facilities that drive each other out of business.

Council Member Carr suggested that in the discussions with San Jose on the Coyote Valley Specific Plan, they should include some type of language regarding the establishment of a regional medical facility.

Mayor Kennedy stated that the long term objective is a full service acute care general hospital with a 24 hour emergency room; but agreed that we should make this type of simple positive statement encouraging the support of a regional facility. This suggestion could be taken back to the Sub-committee for formal wording, since tonight the Sub-committee is looking for ideas and suggestions from the Council that can be formalized into the presentation that will be taken to the Morgan Hill Community Health Foundation.

Council Member Carr asked for clarification on how the recommendations presented this evening differ from the policies and objectives established in the past; and for a firm definition of short term and long term. He also expressed concern about the statement that it is City government’s role to support and facilitate formation of a special district, stating that this is too strong a statement and this has not been discussed. He does not want to make that decision without a discussion. He also requested to know the rationale for the changes being recommended by the Sub-committee.

Council Member Tate referred to the examples listed under #4, and stated that this might be the opportunity to provide guidance regarding the issue of competition. Perhaps the examples could specify the number of facilities that would meet the needs of Morgan Hill while allowing for enough customers to make the facilities for the medical services financially viable. This would also provide a place to mention the regional goals as well.

Council Member Sellers stated that the Sub-committee is looking for ideas, thoughts and suggestions from the Council tonight. They will return to the Council for further discussion which will allow

Council Member Chang to be involved as well. When Council is satisfied, the Sub-committee can then take Council suggestions to the Morgan Hill Community Health Foundation for them to use in working on their objectives, which they will bring back to the Council.

Mayor Kennedy concurred.

Mayor Kennedy opened the floor to public comment

No comments being offered, public comment was closed.

Action: *Mayor Kennedy and Mayor Pro-Tempore Sellers will present the Council Members comments to the Medical Services Sub-Committee and return to Council for further discussion of the Medical Services Policy and Objectives.*

9. DISCUSSION OF OPTIONS FOR PARTICIPATION IN THE COYOTE VALLEY SPECIFIC PLAN

City Manager Tewes presented the oral staff report, and stated that this item was placed on the agenda at the request of the Council following their workshop on the Coyote Valley Specific Plan. The intent of this item is to allow the Council to publicly express how strongly they feel about the issue of Coyote Valley development. He stated that some members of the community have suggested the City pursue legal strategies, but that a more responsible approach is to first address the planning issues being raised. The question raised at the recent workshop was just how much tax-payer dollars are to be invested in the pursuit of this issue.

Mayor Kennedy stated that he felt that there was an excellent beginning on addressing this issue at the workshop held last week with many of the local governmental agencies. He stated that it has proven to be effective, and felt that this led to getting Mayor Gonzales' attention. He feels that we are on the right path with this approach, and would like to continue with this route until we have exhausted all options before considering legal actions. Mayor Gonzales has offered to meet with our committee, and that is the most positive response we have had in a long time.

Council Member Tate agreed that this is a good approach, but expressed concern that there is no defined instruction as to what this Committee will be working on. Stated that he feels they should be working on a statement that says that given the assumptions that have already been made, there could be some misguided decisions made that will have an impact on Morgan Hill; and if those impact materialized, we would have to do something about it. We are not threatening, but just saying that they should let us participate so we can help guide the decisions and that we don't have consequences that we will be forced to do something about in the future. We would want to back that up by showing the impacts on areas like traffic and so forth.

Council Member Sellers agrees that legal action is premature at this time. His desire is to focus on prioritization of what this issue means to the City, and determine if it is a top priority, or just a monitoring situation. Based on actions we have already taken, we have shown it is a top priority, and he

thinks it would be helpful to have that as a positive statement. He stated that this is a top priority and the impacts are significant on our community, and that it is vital to have the surrounding issues resolved. This not only alerts San Jose, but also lets our own citizens know that we do consider it a top priority. He would like to see it done in a form such as a resolution, or whatever would be appropriate, to state that this is a top priority and we are going to be very involved. He also stated that he would like to consider hiring a consultant for this issue rather than adding to the burdens of city staff during these lean staffing times.

Mayor Kennedy stated that he sees this as a back and forth process. He felt that there was a good set of policy statements that came out of the meeting with the San Jose Planning staff, and these were presented to the summit of local agencies that was held last week. This is a good starting point. The next step is to take this information to Mayor Gonzales and get some feedback, and then have a Council meeting to review our policy statements and see if they still satisfy our goals or need to be modified.

Council Member Carr agreed and stated he hopes we keep the regional approach, because that in itself has gained us attention in San Jose and elsewhere. He has been approached by a member of the Coyote Valley Specific Plan Task Force who lives in Coyote Valley, and who made an offer to act as a voice for us on the Task Force. Council Member Carr suggested that the next time we have a summit we invite the entire Task Force to join us for the discussion. He believes we have more allies on the Task Force than previously believed, and that our actions have already made an impact.

Council Member Tate stated he agrees with Council Member Sellers suggestion that we make a formal declaration stating that this is of the utmost importance to the City.

Mayor Kennedy requested that this item be agendized for discussion at a future Council meeting with those specific issues that were raised; and, as Council Member Carr has suggested, also invite our regional south county partners and members of the Task Force to join us.

Mayor Kennedy opened the floor to public comment

No comments being offered, public comment was closed.

Action: *Mayor Kennedy requested that this item be agendized for further discussion at a future City Council meeting, and that the members of the recent Coyote Valley Specific Plan Workshop held by the City Council, and all members of the Coyote Valley Specific Plan Task Force be invited to join the meeting.*

10. DISCUSSION REGARDING THE NEED TO REVIEW TENTATIVE SUBDIVISION MAPS

City Manager Tewes apologized that there was not a written staff report for this item included in the Council packet because it was decided to add it to the agenda at the last minute. It was recognized that there were going to be a series of discussion items upcoming, and this particular one could be easily explained. He has invited the former Director of Community Development, David Bischoff, to attend

tonight's meeting in order to answer any Council questions on this issue.

Mr. Tewes proceeded to explain that several years ago the City Council determined that they wanted to have a notice placed on the Council agenda whenever the Planning Commission approved a tentative subdivision map. The reason this occurred is because such a map is finally approved by the Planning Commission unless appealed; and if no one appealed it to the Council, the Council did not have a means to call up the item for discussion and potential action by the Council. Currently, these items are placed on the Consent Calendar with a recommendation of "Take No Action", which means the Council does not call this item up for discussion. In his experience, there has never been an instance when the Council has taken up a discussion of a tentative map approval by the Planning Commission. In almost all instances, the Council does have an opportunity to review the Development Agreement for the project. Because of a conflict of interest issue at the last meeting, it became necessary for the Council to pull a tentative map item from the Consent Calendar and the Council had to formally make a motion that the Council "Take No Action", which seemed very awkward. That is what caused the request by the Council to reconsider that policy of placing these items on the Consent Calendar.

Mr. Bischoff reported that this policy has been in place for about 20 years. Another possibility is that in some cities the Council does approve these maps, but in Morgan Hill the Council has given that responsibility to the Planning Commission. He suggested that 20 years ago when the Council first considered not approving subdivisions, there was some question as to the advisability of that, so the Council reserved for itself the ability to review those decisions that the Commission had made. He agreed with the City Manager that it is a very rare occasion when the Council would call up a decision by the Planning Commission. It is the same as a use permit or a variance, which does not come to the Council unless it is appealed. By eliminating this step, it doesn't change anything. Any appellant can still appeal to the Council to overturn the decision of the Planning Commission.

Council stated their consensus that it is no longer necessary to list the tentative map on the agenda for Council review.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (4-0, with Chang absent) **Directed** staff to no longer bring Tentative Map Approvals for review by the City Council.*

Mr. Bischoff reminded Council that this will take some time because it requires an amendment to the Municipal Code. In the intervening time, these items may still appear on the agenda, but that does not mean that the staff has not followed Council direction.

11. PURCHASE OF FINANCIAL SYSTEM SOFTWARE

Budget Manager Thai presented the staff report, and stated that the current system's hardware and technical support are outdated and creates a great deal of problems and additional work for the staff in managing the City's financial activities. It also does not have project management capability, which is needed to manage all the large projects the City is undertaking. He stated that the Eden system was unanimously chosen as the final candidate in the RFP process. He stated that all departments will

benefit from this product, not just the Finance Department.

Council Member Sellers reported that he has heard detailed explanations of this issue at the Budget Committee meetings and the obvious obsolescence and insufficiency of the current system has been made clear. He praised the Finance Department staff for their continued outstanding performance, and stated his confidence in their decision making ability and their need for this purchase. He made the motion to approve the staff recommended actions.

City Manager Tewes requested that the motion be amended to include an additional authorization not listed on the agenda, but discussed in the fiscal impact section of the staff report. There is an appropriation needed in the current fiscal year from the General Fund for \$35,250, and from the Redevelopment Agency for \$16,300, in order to purchase the business license module. The motion, as recommended, would authorize the expenditure, but there needs to be this inclusion of the appropriation of the funds.

Council Member Sellers amended his motion to include the appropriation of these funds as stated by the City Manager.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Chang absent) **Authorized** the Purchase of Financial System Software to Replace the Existing Obsolete System.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Chang absent) **Authorized** the Purchase of the Business License Module in Fiscal Year 2003/2004.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Chang absent) **Authorized** the Purchase of the Remaining Modules in Fiscal Year 2004/2005.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Chang absent) **Authorized** the fiscal year 2003/2004 appropriation of \$35,250 from the General Fund and \$16,300 from the Redevelopment Agency Fund for the purchase of the Business License Module.*

Redevelopment Agency and City Council Action

CLOSED SESSIONS:

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	2

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced the 2 items on this agenda; and, concurrently, announced the 1 item listed on the special agenda.

OPPORTUNITY FOR PUBLIC COMMENT

Chairman/Mayor Kennedy opened the Closed Session items to public comment. No comment being offered, the public comment was closed.

ADJOURN TO CLOSED SESSION

Chairman/Mayor Kennedy adjourned the meeting to Closed Session at 7:52 p.m.

RECONVENE

Chairman/Mayor Kennedy reconvened the meeting at 9:30 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced no reportable actions.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Discussion of Options for Participation in the Coyote Valley Specific Plan: Mayor Kennedy requested that this item be agendaized for further discussion at a future City Council meeting, and that the members of the recent Council Workshop on Coyote Valley Specific Plan, and members of the Coyote Valley Specific Plan Task Force be invited to join the meeting.

ADJOURNMENT

There being no further business, Chairman/Mayor Kennedy adjourned the meeting at 9:32 p.m.

MINUTES RECORDED AND PREPARED BY:

MOIRA MALONE, DEPUTY AGENCY SECRETARY/DEPUTY CITY CLERK